

CURRICULUM DESIGN AND LEGAL PEDAGOGY: MOVING BEYOND THE CASE LAW METHOD

Sudhir Krishnaswamy,

The design and prescription of legal curricula in India has attracted significant attention. Though the quality of output is suspect, the Bar Council of India and the University Grants Commission have invested significant amount of time and effort on this activity. Rather surprisingly far less effort has gone into pedagogical initiatives in law teaching. This paper will investigate possible reasons for this lack of interest and develop a model of legal pedagogy which may be adopted in Indian legal education.

Towards the end of the 19th century and early part of the 20th century Indian legal education developed an apprenticeship model of learning the law. Even when Universities began to offer full time law degree courses these were often viewed by the profession as a poor substitute for apprenticeship. So students either apprenticed during the years of their legal education or simply regarded their formal education as a necessary preliminary to their entering the profession as a law clerk. This student attitude is still alive and well in many parts of India.

One of the key ingredients of a 'rigorous' university education in law sought to be developed in the late 1980s and thereafter, was the insistence of the Bar Council on a full time degree in law [recently overruled by the Supreme Court] which allowed little or no time for an apprenticeship model of learning. Some universities like NLSIU sought to adopt a case-law method, or more rarely a cases and materials method, supplemented by a 'Socratic teaching style' to dominate the class room learning space. They moderated the predominance of

classroom based learning by instituting a compulsory summer placement programme and clinical courses.

These pedagogical initiatives have been far from successful. Clinical programmes are invariably taught like the rest of the courses: a set of rules and principles to be memorized and then reproduced or simulated in a highly controlled environment. Placement programmes are seen as stepping stones to a future job, but seldom viewed as an extension of the learning experience in the classroom.

While recognizing that the goals of legal education can, and should, extend beyond the solitary objective of generating competent legal professionals this paper will argue that experiential learning techniques offer us an opportunity to move beyond the stale dichotomies of core course :: clinical course OR case method :: law in context type debates. In the social sciences experiential learning offers the students an insight into their own, and other, social worlds by immersing themselves in it. In legal studies, experiential learning brings a rigorous and continuous engagement with the law in the books as well as the legal profession.

The paper will explore what such an approach would mean for curriculum design and practice in the first year Legal Method course and a second year Property Law course. This ‘super-apprenticeship’ model of legal pedagogy calls for greater investment of time and energy in legal education but the rewards to both students and faculty make its adoption in all law schools in India worthwhile.

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Submitted by

Sudhir Krishnaswamy,

Doctoral Candidate,

University of Oxford

krishnaswamysudhir@gmail.com